

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DARIO L. CANNON,  
Plaintiff,

v.

GERALD JANDA,  
Defendant.

Case No. 13-cv-02419-TEH

**ORDER TO SHOW CAUSE**

The Court is in receipt of Petitioner Dario Cannon's amended petition for a writ of habeas corpus. Rule 15 of the Federal Rules of Civil Procedure applies to Petitioner's amended petition, and Rule 15(b) instructs Courts to "freely give leave when justice so requires." *See* Rule 12 of the Rules Governing §2254 Cases in the United States District Courts, hereinafter "§2254 Rules" (authorizing application of Federal Rules of Civil Procedure where not inconsistent with §2254 Rules). In applying Rule 15, courts are to consider whether the amendment is futile, constitutes undue delay or bad faith, or would cause prejudice to the opposing party. *Foman v. Davis*, 371 U.S. 178, 182 (1962) (outlining reasons where Court may exercise discretion to deny leave to amend under Rule 15). Finding that Petitioner's amendment is not futile, does not constitute undue delay or bad faith, nor would Respondent be prejudiced as Respondent has yet to file any responsive pleading with respect to the original petition – the Court grants Petitioner leave to file an amended petition.

Because it does not appear from the face of the petition that Petitioner is not entitled to habeas relief, the Court hereby orders Respondent Gerald Janda "to show cause why the writ should not be granted." 28 U.S.C. § 2243. Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of the Court shall serve by certified mail a copy of this order on Respondent's attorney, the Attorney General of the State of California.

1           2. On or before **March 17, 2014**, Respondent shall file and serve an answer  
2 showing cause why this Court should not issue a writ of habeas corpus. Respondent's  
3 answer shall conform in all respects to Rule 5 of the § 2254 Rules. In addition,  
4 Respondent shall file and serve with his answer a copy of all portions of the administrative  
5 record that have been transcribed previously and that are relevant to a determination of the  
6 issues presented by the petition.

7           3. If Petitioner wishes to respond to the answer, he shall do so by filing a traverse  
8 with the Court and serving it on Respondent on or before **April 16, 2014**.

9  
10 **IT IS SO ORDERED.**

11  
12 Dated: 1/16/14



THELTON E. HENDERSON  
United States District Judge